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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,223	06/27/2001	Shane M. Kelton	163.1062USD1	5643

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EXAMINER

DICUS, TAMRA

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 11/27/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,223

Applicant(s)

KELTON ET AL.

Examiner

Tamra L. Dicus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-35, 37, 43 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36 and 38-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 36 is rejected under 35 U.S.C. 102(b) as being anticipated by USPN 4,745,032 to Morrison.

Morrison teaches an article of construction suitable for a variety of substrates such as tile, brick, and galvanized surfaces comprising a coating of 35-70 weight % silicon dioxide and 20-40 weight % of aluminum oxide. See col. 8, lines 7-15 and col. 6, lines 55-65. At col. 14, line 20, Morrison explains the use of the construction material may be applied to traffic ways, which is inclusive in flooring materials.

3. Claims 36 and 38-42 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,314,554 to Owens.

Owens teaches a method of producing a laminated tile, where quarry tile is suitable for use and the tile composition is of 60-75% by weight silica and 15-25 % by weight alumina at col. 7, lines 1-40. The coefficient of friction is an inherent property of the tile itself. Because the tile of Owens is made of the components as Applicant claims, the claimed features would therefore be inherent. Further, the tile is not a different product because it is wet or dry, clean or soiled.

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The Examiner notes the phrases “when clean and dry”, “when clean”, and “when wet and soiled” add no positive recitation to the claim and hence are not afforded any patentable weight.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 36 and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,787,655 to Saylor, Jr. in view of USPN 4,745,032 to Morrison and USPN 4,698,249 to Brown.

Saylor teaches a slip-resistant cover of a polymer film with particles or beads contained within the film. The beads may be of any material that can be embedded into a polymer film and have a friction coefficient to provide slip-resistance to a surface. See col. 1, lines 15-30. Saylor teaches his desired beads of choice are stone and have a coefficient of friction above 0.5 when wet or dry, meeting Applicant's ranges of 0.5 to 1.0 of claims 39-42. See col. 4, lines 1-15. Saylor is silent to a friction coefficient value below 0.5, but as Saylor mentions, depending upon the desired bead chosen, the friction of coefficient will be provided. Hence, it would have been obvious to one of ordinary skill in the art to modify the cover of Saylor to include a component exhibiting a friction coefficient from 0.3 to 0.5 when soiled or wet since Saylor teaches such a

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value is dependent upon the choice of material and choice of material provides sufficient toughness and hardness to resist wear. See col. 3, lines 31-59 and col. 4, lines 1-30.

At col. 4, lines 20-32, Saylor lists suitable beads are of aluminium silicate, silicon carbide, aluminum oxide, or mixtures of the aforementioned compounds containing aluminium and silicon. While Saylor does not specify the weight percentages of claim 36, Saylor teaches the coefficient of friction value is dependent upon what material the bead is comprised of. Morrison teaches an article of construction comprising a coating of 35-70 weight % silicon dioxide and 20-40 weight % of aluminum oxide suitable for a variety of substrates such as tile, brick, and galvanized surfaces. See col. 8, lines 7-15 and col. 6, lines 55-65. Hence it would have been obvious to one of ordinary skill in the art to modify the components of Saylor to further specify weight percentages of the components since Morrison teaches using weight percentages of the components for tile at col. 6, lines 55-65 and col. 8, lines 7-15.

Saylor is silent to specifically teaching quarry tile of claim 38. Brown teaches modular accessible units, which is a flooring material of tile and teaches tiles may be ceramic tile like quarry. See col. 3, lines 8-25 and col. 8, lines 50-65. Therefore it would have been obvious to one of ordinary skill in the art to modify the coating of Saylor to include quarry tile since Brown teaches tiles may be of any shape or material including ceramic, stone, and granite as listed in col. 8, lines 45-68.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is (703) 305-3809. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-8329 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Tamra L. Dicus
Examiner
Art Unit 1774

November 20, 2002

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

